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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SEAN L. GILBERT, *et al.*,

Plaintiffs,

v.

BANK OF AMERICA, N.A., *et al.*,

Defendants.

Case No. 13-cv-01171-JSW

JOINT STATUS REPORT

Date Action Filed: October 16, 2013

Pursuant to this Court's Orders Compelling Arbitration (Docket Nos. 186 and 188), Defendants David Johnson, Kirk Chewning, Vector Capital IV, LP ("Defendants") and Plaintiffs Sean Gilbert and Kimberly Bilbrew ("Plaintiffs") (collectively, the "Parties") hereby provide the following joint status report.

On April 8, 2015 and April 10, 2015, the Court ordered that Plaintiffs' claims against Defendants were subject to arbitration ("Orders"). Docket Nos. 186, 188. Pursuant to the Court's Orders, on April 17, 2015, Mr. Johnson and Mr. Chewning filed a demand for arbitration with the International Chamber of Commerce ("ICC") to resolve Plaintiffs' claims alleged in their Second

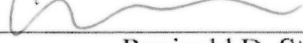
Amended Complaint (Docket No. 176). On April 20, 2015, Vector Capital IV, LP filed its own demand for arbitration. That same day, Plaintiffs filed four separate, yet identical, demands for arbitration for each loan that they were issued by Cash Yes. On August 21, 2015, the ICC appointed Nathan O'Malley as the sole arbitrator to conduct all six arbitrations. Mr. O'Malley is an attorney at Gibbs Giden Locher Turner Senet & Wittbrodt, LLP and practices in Los Angeles, California.

On September 9, 2015, the Parties participated in an initial case management conference with the arbitrator. The arbitrator set a briefing schedule to address several preliminary issues, including whether the arbitration provision and the class action waiver in Plaintiffs' loan agreements are enforceable. On December 17, 2015, the arbitrator held a hearing on these preliminary issues at the offices of Gibbs Giden Locher Turner Senet & Wittbrodt, LLP in Los Angeles, California. On January 4, 2016, the arbitrator held a post-hearing telephone conference and ordered the Parties to provide supplemental briefing on specified issues by January 29, 2016.

The parties will submit an updated joint status report to the Court within 120 days.

Dated: January 4, 2016


AKIN GUMP STRAUSS HAUER & FELD LLP

By 
Reginald D. Steer
Ashley B. Vinson
Danielle C. Ginty

Attorneys for Defendants David A. Johnson and
Kirk Chewning

Dated: January 4, 2016

KIRKLAND & ELLIS LLP

By 
Mark McKane
Michael Esser
Attorneys for Vector Capital IV, LP

Dated: January 4, 2016

LAKESHORE LAW CENTER

By _____
Jeffrey Wilens
Attorneys for Plaintiffs

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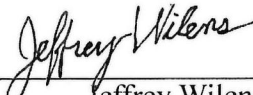
Dated: January 4, 2016

KIRKLAND & ELLIS LLP

By _____
Mark McKane
Michael Esser
Attorneys for Vector Capital IV, LP

Dated: January 4, 2016

LAKESHORE LAW CENTER

By  _____
Jeffrey Wilens
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: 580 California Street, Suite 1500, San Francisco, California 94104. On January 4, 2016, I served the foregoing document(s) described as: **JOINT STATUS REPORT**, on the interested party(ies) below, using the following means:

All parties identified for Notice of Electronic Filing generated by the Court's CM/ECF system under the referenced case caption and number

☒ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above.

Andrew C. Simpson
Law Offices of Andrew C. Simpson P.C.
2191 Church St., Ste. 5
Christiansted, St. Croix, VI 00820

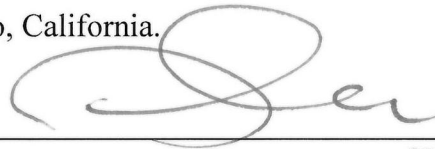
☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at San Francisco, California.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 4, 2016, at San Francisco, California.

Jeremias V. Cordero

[Print Name of Person Executing Proof]



[Signature]